

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

LABORERS' INTERNATIONAL UNION)
OF NORTH AMERICA, PUBLIC)
SERVICE EMPLOYEES' LOCAL UNION 45)
116 North 8th Street)
Columbia, Missouri 65201)

Petitioner,)

vs.)

Public Case No. 76-005

UNIVERSITY OF MISSOURI)
705 South 5th Street)
800 Lewis Hall)
Columbia, Missouri 65201)

Respondent,)

and)

INTERNATIONAL UNION OF OPERATING)
ENGINEERS, LOCAL 2, AFL-CIO)
Suite 905 - Chemical Building)
721 Olive Street)
St. Louis, Missouri 63101)

Intervenor.)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

FINDINGS OF FACT

This case appears before the State Board of Mediation upon Laborers' International Union of North America, Public Service Employees' Local Union 45 of Columbia, Missouri, (hereinafter referred to as petitioner) filing a Petition for Certification with this Board for exclusive bargaining rights for employees on the Columbia, Missouri campus of the University of Missouri (hereinafter referred to as the University). The International Union of Operating Engineers, Local 2, AFL-CIO (hereinafter referred to as the intervenor) subsequently intervened for the purpose of offering evidence and a

statement of its position in this matter. On May 25 and 26, 1976, the representatives of the respective parties met at a hearing before the Board of Mediation in Jefferson City, Missouri, to present evidence regarding the following question:

"The sole question which the parties will address themselves to is whether the University of Missouri should be viewed for the purposes of a bargaining unit as either one unit or whether the campuses of Kansas City, Columbia, Rolla, and St. Louis should be viewed as separate entities to the bargaining process."

The State Board of Mediation has the authority to hear and decide this matter pursuant to Section 105.525 RSMo. 1969, which states in part:

"Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the state board of mediation."

The University was created in 1839 with the enactment of Section 172.010 RSMo. 1969, which states:

"A university is hereby instituted in this state, the government whereof shall be vested in a Board of Curators."

The University consists of four separate campuses. The Columbia campus, the seat of the administration of the University and the site which is in controversy in this matter, is located near the middle of the state. The remaining campuses are situated at Kansas City, Rolla and St. Louis and are a distance of between one hundred to one hundred thirty miles from the Columbia campus.

The ultimate governing body of the University is the Board of Curators. On or about February 19, 1967, the Board of Curators adopted a Resolution which provided in Part I:

". . .the Board of Curators at this time as a matter of policy will recognize two regularly organized and established labor unions for the University of Missouri as a whole to represent those non-academic employees, except clerical and administrative personnel, of the University who individually elect, in writing, directly to University representatives, a desire for either of such unions to represent them, for the purpose of discussing general working conditions, employee benefits and services, opportunities for training, and grievances with the University administration,. . ."

(Emphasis Added)

Part IV of the same Resolution provides:

"That until further action of this Board, (Board of Curators) it does hereby recognize, through such of their affiliates as they may designate, Laborers' International Union, AFL-CIO, and International Union of Operating Engineers, Local 2, as the representative of those employees who desire it to represent them."

At the present time Laborers' International Union of North America, through their designated affiliates, represent employees of the University at the Kansas City and Columbia campuses. Intervenor represents employees at the Rolla and St. Louis campuses.

The University has established for each of the four campuses an Employee Relations Manual which are identical except for approximately five (5) minor discrepancies. Each Manual states on page 2:

"This EMPLOYEE RELATIONS MANUAL has been prepared for distribution to the administrative staff and to the support and service personnel by direction of the Board of Curators of the University of Missouri. These policies and procedures apply to regular, full-time employees, but not to temporary or part-time personnel."

Page 3 of each Manual states:

"The Personnel Policies for the Academic and for the Administrative, Service and Support Staff personnel throughout the University are established by the Board of Curators after full consideration of the recommendations and needs of all groups of employees."

The evidence shows that labor policies are developed by the Central Administration in consultation with the campuses, however final authority lies with the Board of Curators.

The evidence further demonstrates that the University has a central purchasing office; a central foods operation; a centralized computer network; centralized research grants; centralized accounting, auditing and budgeting operation; and that the campuses are considered to be academic or administrative subdivisions of the University.

The evidence further shows that appropriations from the State Legislature for salaries, wages and benefits are in the form of a lump sum for the University as a whole; and wage rates are prepared centrally.

In addition, the University has state-wide programs which are applicable to all University employees with regard to retirement, disability and death benefits; medical benefits; long term disability; accidental death and dismemberment insurance; life insurance, non-academic grievances; seniority; holidays; vacations; sick leave; overtime pay; jury duty; funeral leave; shift pay differential; employee status; probationary period; rest period; military leave; checkoff of union dues; times and dates of wage increases and/or changes in fringe benefits; and job descriptions.

CONCLUSIONS OF LAW

As has been mentioned, the only issue to be determined in this decision

"...is whether the University of Missouri should be viewed for the purposes of a bargaining unit as either one unit or whether the campuses of Kansas City, Columbia, Rolla, and St. Louis should be viewed as separate entities to the bargaining process."

Section 105.500 (1) RSMo. 1969 defines the term

appropriate unit:

"'Appropriate Unit' means a unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned;"

It is the position of this Board that decisions rendered under the National Labor Relations Act are of great assistance in guiding this Board to an equitable decision, nevertheless they are not controlling upon this Board.

In determining what establishes a clear and identifiable community of interest in an educational atmosphere where a University operates a number of facilities, this Board considers such factors as prior bargaining history; centralization of management,

particularly in regard to labor relations; extent of employee interchange; degree of interdependence or autonomy of facilities; differences or similarities in skills and functions of the employees; and geographical location of the facilities in relation to each other. Cornell University, et al. and Association of Cornell Employees -- Libraries, et al., 183 NLRB No. 41, 74 LRRM 1269 (June 12, 1970). Each of the aforementioned factors will be discussed briefly.

The labor relation policies and prior bargaining history of the University with both the petitioner and the intervenor is adequately stated in the University's Employee Relations Manuals. It is clear that the policies and procedures contained therein are intended to apply to all regular, full-time employees as directed by the Board of Curators of the University.

In reference to centralization of management, with particular regard to labor relations, the evidence clearly shows that the personnel and labor policy, although reviewed with the local campuses is centrally controlled by the Board of Curators. In this area intervenor has strongly urged this Board to consider the Affirmative Action Program which presently exists in varying degrees at each of the four campuses. Upon careful study, it is the finding of this Board that there does indeed exist an Affirmative Action Program at each campus which differs to some degree from that of any of the other campuses, however the Board of Curators has adopted the basic Equal Employment Opportunity Program and designated the President of the University as the individual to implement the policy.

In the area of employee interchange, the evidence demonstrates that there is little exchange of employees from campus to campus. Job postings for each of the four campuses are posted at the University's Columbia Personnel Office.

The next area to be reviewed is the interdependence or autonomy of the various campuses. The evidence demonstrates that employees' grievances and individual wage rates may be discussed on each of the individual campuses, however the basic policies

relating to labor and to the operation of the University are formulated by the Board of Curators leaving little real autonomy to the individual campuses.

The evidence shows that there are very little differences in skills and functions of the employees in identical positions from campus to campus. The job description prepared for a particular title, such as custodian, would be applicable to all four campuses.

It has been stated that all campuses are approximately 100 to 130 miles from the Columbia campus, the seat of the administration. This Board agrees that there is a wide divergence in geographic locations, however this factor alone should not be controlling - it is the responsibility of this Board to consider all pertinent factors. The case of Pittsburgh Plate Glass Co. v. NLRB, 313 U.S. 146, 85 L.Ed. 1251, 61 S. Ct. 908, reh. den. 313 U.S. 599, 85 L.Ed. 1551, 61 S. Ct. 1093 (1941), clarifies this point.

"Petitioners find failure of evidence to establish the appropriateness of the division-wide unit. It is true the record shows substantial degree of local autonomy. Crystal City is a separate industrial unit, not one mechanically integrated into the division. The local superintendent deals with labor grievances, the plant has its own purchasing agent and there is no exchange of employees. On the other hand, labor policies and wages come from the central office in Pittsburg, there is great similarity in the class of work done. Wages, hours, working conditions, manufacturing processes differ only slightly among the plants. An independent unit at Crystal City, the Board was justified in finding, would frustrate division-wide effort at labor adjustments. *** We are of the view that there was adequate evidence to support the conclusion that the bargaining unit should be division-wide."

Upon careful consideration of the aforementioned factors as set forth in the Cornell case, supra, it is the opinion of this Board that although the campuses of the University are located throughout the state there is sufficient integration and centralization to create a community of interest between all the non-academic employees.

DECISION

It is the decision of this Board that the University of Missouri should be viewed for the purposes of a bargaining unit as one entity.

Dated this 27th day of January, 1977.

MISSOURI STATE BOARD OF MEDIATION

(SEAL)

/s/ Michael Horn
Michael Horn, Chairman

/s/ Harry R. Scott
Harry R. Scott, Employer Member

DISSENTING

/s/ Robert Missey
Robert Missey, Labor Member

DISSENTING OPINION

I must respectfully dissent from the decision of my colleagues. The majority has found that the ultimate authority in labor policy lies with the Board of Curators. The majority has ignored that for the past several years each campus has settled its own labor relations policy independent of each other campus, even though the broad outlines of labor policy have been established by the Board of Curators. In the past, all grievances have been handled on an individual campus level. All hiring has been done on an individual campus level and the failure to transfer employees from one campus to another is further evidence that the University treated each campus as a separate entity.

The majority has failed and refused to take into account the past bargaining history of the University in relation to both Petitioner and Intervenor and has adopted a decision without foundation in fact and has ignored the decision of the National Labor Relations Board in establishing grounds for its decision.

The University itself, by its actions, established the separateness of its several campuses. The majority should not have found that the University of Missouri is one entity for purposes of collective bargaining, but should have found that each campus constitutes an appropriate and separate bargaining entity.

This 25th day of January, 1977.

/s/ Robert Missey
Robert Missey, Labor Member